

## **REMARKS/ARGUMENTS**

Reconsideration and allowance of the present application based on the following remarks are respectfully requested.

Claims 1-2, 5-11, 14-21, 26-28, 30-31, 33, 35-40 have been amended herein. Claims 3-4, 13, 25, 32, 34 and 41-44 have been cancelled, and new claims 45-54 have been added. Support for all amendments and new claims can be found throughout the specification. No new matter has been added.

Applicants have amended or cancelled claims 36, 37, 39, 40, 42 and 44. Accordingly, the objection to these claims as being improperly dependent has been addressed and the claims are in full compliance with 37 C.F.R. §1.75(c).

Claims 31-34, 36, 37, and 39-44 stand rejected under 35 U.S.C. §112, first paragraph, for failing to comply with the written description. The amendments and/or cancellation of the claims has addressed this rejection and it is submitted that the remaining claims are in full compliance with 35 U.S.C. §112.

With regard to the 35 U.S.C. §102(b) rejections of the claims in view of *Mulhaupt et al.* and the 35 U.S.C. §103 rejection of claim 27 over *Mulhaupt et al.* in view of *Welke et al.*, it is submitted that the claims, as amended, overcome these rejections. Specifically, *Mulhaupt et al.* does not teach an epoxy resin composition (or prepolymer) comprising or formed from an impact modifier comprising:

- (i) a polyamide, a polyurethane, a polyesteramide, a copolymer formed from a polyester and polyamide, or a polyurethane formed from a polyester, or
- (ii) a polyester comprised of polyol residues derived from polyols having a molecular weight of between 50 and 200 and/or dimer diol residues derived from dimer fatty diols, or
- (iii) a residue of dimer fatty acids and non-dimer fatty acids wherein the ratio of dimer fatty acids to non-dimer fatty acids is in the range from 30 to 60%:30 to 60% by weight of the total dicarboxylic acids, or
- (iv) a polyester comprising polyol residues consisting essentially of pentaerythritol, glycerol, trimethylolpropane, ethylene glycol, diethylene glycol, 1,3-propylene glycol, dipropylene glycol, 1,4-butylene glycol, 1,6-hexylene glycol, neopentyl glycol, 3-methyl pentane glycol, 1,2-propylene

glycol, 1,4-bis(hydroxymethyl)cyclohexane, (1,4-cyclohexane-dimethanol) and dimer fatty diols.

Moreover, Welke *et al.* does not overcome the noted deficiencies in the primary reference. Accordingly, the claims, as amended, overcome the art relied on by the Examiner. In direct contrast, the polyesters of Mulhaupt contain polyalkylene glycols (PAGs) which results in the polarity of said polyesters being too high. Accordingly, the polyesters of Malhaupt lack the phase separation property.

Therefore, all objections and rejections having been addressed, it is respectfully submitted that the present application is in a condition for allowance and a Notice to that effect is earnestly solicited.

Should any issues remain unresolved, the Examiner is encouraged to contact the undersigned attorney for Applicants at the telephone number indicated below in order to expeditiously resolve any remaining issues.

Respectfully submitted,

JONES DAY

By:



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